United Nations S/AC.50/2008/48

Security Council

Distr.: General
4 June 2008

Original: English

Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 29 May 2008 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1737 (2006), and has the honour to enclose herewith the country report of Viet Nam on the implementation of resolution 1803 (2008) (see annex).

08-36988 (E) 120608

Annex to note verbale dated 29 May 2008 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Committee

Report of the Socialist Republic of Viet Nam on the implementation of United Nations Security Council resolution 1803 (2008)

Pursuant to paragraph 13 of United Nations Security Council (UNSC) resolution 1803 (2008), Viet Nam hereby offers its country report to the Security Council on the current legal system of Viet Nam as well as measures that Viet Nam takes to implement resolution 1803 (2008) as follows:

Viet Nam stands consistent against the proliferation of nuclear weapons and other weapons of mass destruction, and strives towards their complete elimination. Viet Nam, at the same time, supports the right of nations to develop nuclear energy and technologies for peaceful purposes. Consistent with this position and as a responsible member of the United Nations, Viet Nam has implemented, in a serious manner, UNSC resolutions 1737 (2006) and 1747 (2007) and continues to implement these together with recently adopted resolution 1803 (2008).

Shortly after the Security Council adopted resolution 1803 (2008), the Prime Minister of Viet Nam, in official document No. 298/298/VPCP-QHQT dated 2 April 2008, instructed relevant Ministries and agencies to take appropriate steps to implement the resolution. Pursuant to the Prime Minister's instructions, the Ministries and agencies designated their respective focal points and have taken necessary measures within their mandate to implement resolution 1803 (2008).

1. In relation to entry and exit (paragraphs 3, 5)

In the Ordinance on Entry, Exit and Residence of Foreigners in Viet Nam No. 24/1999/PL-UBTVQH10 of 28 April 2000 (hereinafter, the Ordinance), Article 1(2) reads "Foreigners entering, departing, transiting or residing in Viet Nam must abide by Vietnamese laws and respect the traditions, custom and practices of the Vietnamese people. It is strictly prohibited to take advantage of the entry, exit, transit and residence in Viet Nam to violate the law."; Article 1(3) further reads "In case of international conventions or treaties that Viet Nam is adhered to otherwise stipulate in regard to the entry, exit, transit and residence of foreigners in Viet Nam, the provisions of such international conventions or treaties shall prevail". Besides, Article 4 of the Ordinance makes it clear that "foreigners entering or exiting Viet Nam must hold passports or alternative travel documents (hereinafter referred to as passport) with a valid visa issued by an authorized Vietnamese agency, except for cases wherein a visa is not required". Article 19 of the Ordinance also stipulates that "the Ministry of Public Security has the responsibility before the Government to lead the State managerial activities on entry, exit and residence of foreigners in Viet Nam".

Apart from the Ordinance of 2000, there are also Decree No. 21/2001/ND-CP on the detailed implementation of the Ordinance of 2000 and Decree No. 32/2005/ND-CP of 11 March 2005 of the Government, stipulating the Regulations for Land Border Gates and the exit and entry, transit, import and export through the border gates of people, vehicles and goods, in order to manage and protect sovereignty and national border security. Article 15 of this Decree strictly

prohibits all false passports and travel documents; organization, guiding and transportation of people for illegal migration purposes at border gates.

With regard to the airspace, the Government issued Decree No. 25/2000/ND-CP dated 1 August on the control of civil aviation activities by both Vietnamese and foreign civil aircrafts over the airspace of Viet Nam and along the notified air routes under Viet Nam's control.

As regard to the national waters, the Ordinance on Marine Police of Viet Nam No. 04/1998/PL-UBVQ1110, dated 25 March 1998, stipulates that the Vietnamese Marine Police is the designated force of the State to conduct State management and maintain law and order as well as the adherence to Vietnamese laws and other related international treaties and conventions that Viet Nam is a party to regarding Vietnamese waters and the continental shelf.

These are the legal basis for Vietnamese relevant authorities to tightly control the entry and exit of travellers at its border gates.

2. In relation to the freezing of funds, financial assets and economic resources (paragraph 7)

The legal base for Viet Nam to implement paragraph 7 of resolution 1803 (2008) is composed of the following documents: the 1997 Law on State Bank (modified in 2003); the 1997 Law on Credit Institutions (modified in 2004); the 2005 Ordinance on Foreign Exchange; Decree No. 202/2004/ND-CP dated 10 December 2004, by the Government on Administrative Penalties in monetary field and banking operations; Decree No. 64/2001/ND-CP dated 20 September 2001 by the Government, on payments through payment service organizations; Decree No. 74/2005/ND-CP dated 7 June 2005, by the Government on prevention and combat money-laundering; Decree No. 48/2001/ND-CP by the Government on the Operation of the People's Credit Funds; and Decree No. 69/2005/ND-CP dated 26 May 2005 by the Government on the Amendments of Decree No. 48.

In particular, Decree No. 74/2005/ND-CP dated 7 June 2005 by the Government stipulates measures to address money-laundering in Viet Nam in monetary or asset transactions, including the responsibilities of individuals and agencies in preventing and countering money-laundering as well as international cooperation in this field. In accordance with the Decree, an Anti-Money Laundering Information Centre (AMLIC) administered by the State Bank is set up to receive information on illegal transactions or transactions of illegal origins. Financial institutions and non-banking intermediary stakeholders, such as lawyers and accountants are obliged to report suspicious transactions. The State Bank of Viet Nam is assigned as the lead State monitoring authority and has to report periodically to the Government. The Ministry of Public Security is the lead authority in handling money-laundering rated crimes, including investigation of money-laundering cases. Other ministries and agencies have the duty to coordinate with these two authorities to implement the Decree. The Decree also elaborates provisional measures that might be taken in the process of preventing and combating money-laundering such as: (i) not to effect transactions; (ii) to block accounts; (iii) to seal up or seize property; (iv) to seize violators; (v) other preventive measures provided for by law.

3. In relation to the supply, sale and transfer of items referred to in paragraph 8 of the resolution

In Viet Nam, all weapons and armaments are under the strict and sole control of the State and individuals are prohibited from possessing and using weapons. Weapons and related materials are considered special goods that are prohibited from production, stockpiling, transporting and trading. Apart from the laws and regulations applied generally on all weapons, Viet Nam also promulgated additional regulations for the control of weapons of mass destruction and related materials.

Articles 230, 232, 234, 236, 237, 238 and 239 of the Criminal Code of 1999 set out the detailed punishment frameworks for offence on illegally producing, stockpiling, transporting, using, trading in and appropriating military weapons and technical equipments; offence on breaching regulations on management of weapons, explosives and supporting equipment; offence on illegally producing, stockpiling, transporting, using, trading in and appropriating radioactive substances; offence on breaching regulations on radioactive substances management; offence on illegally producing, stockpiling, transporting, using or trading in inflammables, toxins; and offence on breaching regulations on the management of inflammables, toxins.

Since 1996, Viet Nam has promulgated the Ordinance on Radiation Safety and Control, which clearly provides that all activities relating to radioactive substances, whether conducted by the State or individuals including the possession, use, production, import-export and transportation of radioactive sources and nuclear materials must acquire the permission and abide by the control of the Ministry of Science and Technology. On 16 July 1998, the Government of Viet Nam further promulgated Decree No. 50/1998/ND-CP guiding the detailed implementation of the Ordinance.

Since the year 2000, in order to enhance and further improve the system of and measures for management and control, the Viet Nam Atomic Energy Agency, in collaboration with the Nuclear and Radiation Safety Bureau (now known as the Department of Radiation and Nuclear Control and Safety), has designed and implemented the National Nuclear and Radiation Safety Action Plan. The key components of the action plan include: further improving the basic legal system relating to radioactive safety and control, promulgating a Government decree on the implementation of the Ordinance on Radiation Safety and Control and the Decree on Administrative Punishments for Violations in Radiation Safety and Control, as well as a number of other related circulars, directives and standards; improvement of the State managerial system for radiation safety and control from the Centre to the localities while at the same time conducting licensing and inspection works for radioactive establishments in the country. In 2006, Viet Nam enacted a number of legal instruments relating to radiation safety and control, namely Circular No. 05/2006/TT-BKHCN on guiding declaration and licensing procedures for radiation-related activities; Circular No. 10/2006/TT-BKHCN on guiding specialized supervision work for radiation safety and control; Directive No. 13/2006/CT-BKHCN on strengthening control work of radiation safety and security, and Decree No. 51/2006/ND-CP dated 19 May 2006 on punishment for administrative violations in radiation safety and control. A draft Law on Atomic Energy is under consideration by the National Assembly and is expected to be adopted in 2008. The main thrust of the draft law is to regulate measures to ensure the safety of all nuclear-related activities and that all these activities are for peaceful

purposes. It also strictly prohibits the use of nuclear energy for other purposes that may encroach upon State sovereignty, infringe upon the legitimate rights and interests of organizations and individuals or harm humans and the environment.

With regard to chemicals, the Ministry of Industry is the State monitoring authority. On 3 August 2005, the Government of Viet Nam promulgated Decree No. 100/2005/ND-CP on the implementation of the Convention on Chemical Weapons, which gives out strict regulations for the transfer of chemicals. On 20 November 2007, the National Assembly of Viet Nam adopted the Law on Chemicals, which designated the Ministry of Industry and Commerce as the Government agency having managerial responsibility for activities relating to chemicals.

On 26 August 2005, the Prime Minister issued Decision No. 212/2005/QD-TTg promulgating the Regulation on Bio-safety Control over Genetically Modified Organisms (GMO) and GMO-based products. The Regulation provides for State management over bio-safety in the following activities: scientific research, technological invention, testing; production, trading and use; import, export, storage and transportation; risk assessment and management, bio-safety licensing for GMO and GMO-based products in order to protect human health, the environment and biodiversity.

Article 15 of Decree No. 32/2005/ND-CP of the Government sets out the Regulations on Land Border Gates and prohibits "smuggling and transporting or illegal using goods, currencies, weapons of various types, explosives, inflammables, toxins, radioactive substances, narcotics and other goods banned from import and export by the State" at the border gates.

Article 242 of the 2005 Trade Law clearly stipulates that "All goods of foreign organizations and individuals are permitted to transit through the territory of Viet Nam and only need to complete customs procedures at the entry and exit customs points in accordance with the laws except in the following cases: Goods that are weapons, ammunition, explosives and other highly dangerous goods unless having the permission of the Prime Minister" ... According to Annex 01 attached to Decree No. 12/2006/ND-CP issued on 23 January 2006 by the Government on the Regulations for Implementation of the Trade Law regarding international trading of goods and activities of dealers working in the field of buying, selling, processing and transiting goods with foreign countries, "weapons, ammunition, explosives (except for industrial explosives), military equipment and technology" fall into the list of prohibited goods for export.

In regard to the temporary import for re-export, regulations for business in the form of temporary import for re-export and transit shipment stipulate that the temporary import for re-export and transit shipment of prohibited goods must have the permission of the Ministry of Trade.

Article 159 of Viet Nam Civil Aviation Law of 2006 stipulates that "Air transportation of weapons, war devices and nuclear waste is prohibited in the territory of Viet Nam except the special cases with the permission of competent authorities. This regulation is also applied to chartered aircraft."

Regarding the trans-shipment goods, the Interdisciplinary Circular No. 08/2004/TTLT-BTM-BTC-BGTVT issued by the Ministries of Trade, Finance and Transport on 17 December 2004 on the instruction of container trans-shipment

services at Viet Nam's seaports specify the prohibited goods in trans-shipment as follows: weapons, ammunition, explosives and military equipment; atomic waste and toxic substances in the Prohibited Toxic Chemicals List as stipulated by the Vietnamese laws.

Viet Nam Customs Authority have been and will be undertaking the following measures:

- Cooperate with the other countries' customs and relevant international organizations on the transportation of prohibited and smuggled goods across borders.
- Conduct capacity-building and customs modernization projects and provide border gates with advanced equipments to enhance the goods supervision across national borders.
- Formulate and upkeep the control measures for cross-border goods in a proper and effective manner; assure law enforcement to detect and prevent the illegal transportation of smuggled and prohibited goods, weapons, explosives and other hazardous substances.